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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,617	01/27/2004	Michael Dieudonne	31030288 US02/871-011664-	3384
2512	7590	04/30/2007	EXAMINER	
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			SOBUTKA, PHILIP	
		ART UNIT	PAPER NUMBER	
		2618		
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			04/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/766,617	DIEUDONNE, MICHAEL
	<b>Examiner</b>	<b>Art Unit</b>
	Philip J. Sobutka	2618

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 02 February 2007.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 January 1994 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____.                                     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____.                         |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Little et al (GB 2350972) in view of Little (US 5,999,520) and in view of Rainer (GB 2329794).

Consider claim 5. Little teaches an apparatus for testing a passenger's user equipment comprising:

a test machine configured to perform the following:

access the passenger's information (*Little see page 8, line 15 – page 9, lines 11*),

identify an air interface utilized by the passenger's user equipment (*Little see page 8, line 15 – page 9, lines 11*),

retrieve the identification number of the passenger's user equipment (*Little see page 8, line 15 – page 9, lines 11*),

test the user equipment for operational suitability with an in-flight communication system (*Little see page 12. lines 1-12, page 13, lines 1-7*),

Note that Little teaches that elements of the MSC, which include storage can be incorporated into the aircraft, also, Little teaches presenting the resulting of the testing to the aircraft crew. However, Little (GB 235097) fails to teach the apparatus further comprising a database accessible by the in-flight communication system for receiving

from the test machine the identification number of the passenger's user equipment and a Pass or Fail status resulting from the test of the user equipment. In a related arrangement, Little does teach storing the results of the testing in a database (*Little see for example column 3, lines 53 – 60, column 7, lines 12-17*). Therefore it would have been obvious to one of ordinary skill in the art to modify GB 2350972 to provide a database to store the results as well as merely presenting them to the aircraft crew.

Little also lacks a teaching of the control of use being performed prior to boarding. Rainer teaches control of use of electronic equipment being performed prior to boarding an aircraft (Rainer see for example page 3, paragraphs 4,5). Rainer teaches that this allows the use of electronics to be controlled before they can cause a hazard or are otherwise undesirable (Rainer see fore example page 1, paragraph 1) Therefore it would have been obvious to one of ordinary skill in the art to modify Little to perform the control prior to boarding to allow the use to be controlled before they can cause a hazard or are otherwise undesirable.

As to claim 6, Little in view of Little and Rainer teaches the apparatus of claim 5, wherein the test machine is configured to test the user equipment for operational suitability with an in-flight communication system by testing an air interface of the user equipment (*Little see page 12. lines 1-12, page 13, lines 1-7*).

As to claim 7, Little in view of Little and Rainer teaches the apparatus of claim 5, wherein the test machine is configured to test the user equipment for operational suitability with an in-flight communication system by testing the user equipment for at least transmitted power levels (*Little see page 12. lines 1-12, page 13, lines 1-7*).

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Little et al (GB 2350972) in view of Little (US 5,999,520) and in view of Miller (US 6,990,338) and in view of Rainer (GB 2329794).

Little teaches a method of testing user equipment for operational suitability with an in-flight communication system, the method comprising the steps of:

identifying an operator of said user equipment (*Little see page 8, line 15 – page 9, lines 11*),

testing said user equipment for a set of predetermined parameters (*Little see page 12. lines 1-12, page 13, lines 1-7*),

communicating said Pass or Fail status and said operator identity to said in-flight communication system (*Little see page 13, lines 18-21*).

Note that Little teaches that elements of the MSC, which include storage can be incorporated into the aircraft, also, Little teaches presenting the resulting of the testing to the aircraft crew. However, Little (GB 235097) fails to teach the results of the monitoring testing being stored in a database. In a related arrangement, Little does teach storing the results of the testing in a database (*Little see for example column 3, lines 53 – 60, column 7, lines 12-17*). Therefore it would have been obvious to one of ordinary skill in the art to modify GB 2350972 to provide a database to store the results as well as merely presenting them to the aircraft crew.

Little lacks a teaching of comparing said test results with a predefined criteria to determine a Pass or Fail status of said user equipment.

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Miller teaches a method of testing user equipment for suitability with an in flight communication system in which test results are compared with a predefined criteria to determine if the device can be used or not (*Miller see especially column 4, lines 30-45, column 5, line 25 – column 7, line 66, Tables 1-3*). Miller teaches that this assures compliance with applicable radiation levels (*Miller see especially column 1 line 45 – column 2, line 5, column 10, lines 20-50*).

It would have been obvious to one of ordinary skill in the art to modify Little to compare the test results to predefined criteria in order to ensure that the only devices allowed to operate confirmed to applicable standards as taught by Miller.

Little also lacks a teaching of the control of use being performed prior to boarding. Rainer teaches control of use of electronic equipment being performed prior to boarding an aircraft (Rainer see for example page 3, paragraphs 4,5). Rainer teaches that this allows the use of electronics to be controlled before they can cause a hazard or are otherwise undesirable (Rainer see fore example page 1, paragraph 1) Therefore it would have been obvious to one of ordinary skill in the art to modify Little to perform the control prior to boarding to allow the use to be controlled before they can cause a hazard or are otherwise undesirable.

As to claim 2, Little in view of Miller teaches the method as claimed in Claim 1, wherein said user equipment is a mobile phone (*Little see especially page 8, lines 1-15*).

As to claim 3, Little in view of Miller teaches the method as claims in Claim 2, wherein said set of predetermined parameters includes user equipment power level (*Little see especially page 12 line 18 – page 13, line 7*).

As to claim 4, Little in view of Miller teaches the method as claimed in claim 1, wherein the set of predefined parameters includes at least one of adjacent channel leakage and waveform quality (*note that Little teaches testing and adjusting to minimize co-channel interference, i.e. leakage, while maintaining reliable communication, i.e. quality, see page 12, lines 1-7, 19-22*).

#### **Response to Amendment**

4. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J Slobutka whose telephone number is 571-272-7887. The examiner can normally be reached on Monday - Friday, 8:30am - 5:00pm.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew D. Anderson can be reached on 571-272-4177.

9. The central fax phone number for the Office is 571-273-8300.

Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number.

**CENTRALIZED DELIVERY POLICY:** For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies. For example, if the examiner has rejected claims in a regular U.S. patent application, and the reply to the examiner's Office action is desired to be transmitted by facsimile rather than mailed, the reply must be sent to the Central FAX Number.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Philip Sobutka

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**Matthew D. Anderson**  
Supervisory Patent Examiner